

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-07/09-366
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit (HAEU), to close his Vermont Health Access Program (VHAP) benefits and to close Dr. Dynasaur benefits for his minor son. HAEU determined that the petitioner was over-income for both programs. The issue stems from the determination of petitioner's household composition.

The material facts are not in dispute.

FINDINGS OF FACT

1. The petitioner and S.G. are the parents of two children. Their son is seventeen years old. Their daughter is nineteen years old and attending college. The daughter is covered by her mother's health insurance.

2. The petitioner was divorced from S.G. on December 30, 2008. Due to economics, both petitioner and S.G. have remained in the same house and plan to do so until the house

is sold. Petitioner has sole parental rights and responsibilities for the minor son.

3. Both petitioner and S.G. are employed.

4. The Department issued a Notice of Decision on June 19, 2009 finding that petitioner was over-income for VHAP and for Dr. Dynasaur and proposed closing both programs effective July 31, 2009.

5. The Department found that petitioner's gross monthly wages were \$3,914.44 and that S.G.'s gross monthly wages were \$3,331.76. The Department applied two \$90 work deductions leaving the household income at \$7,066.20 or 382% of the Federal Poverty Level (FPL); petitioner's countable income is greater than the maximum levels of the applicable programs. Petitioner does not dispute the figures used by the Department.¹

6. The petitioner filed for a fair hearing on July 9, 2009 and has been receiving continuing benefits.

ORDER

The Department's decision to close VHAP and Dr. Dynasaur is affirmed.

¹ Petitioner has changed jobs. Petitioner can reapply for benefits based upon the change in his earnings.

REASONS

The crux in this case is the definition of household as it applies to benefits under the VHAP and Dr. Dynasaur programs.

The Department determined that S.G.'s presence in the household means she must be included in the household for purposes of determining eligibility. The petitioner argued that S.G. should not be included by virtue of the divorce and his sole responsibility for his son.

The pertinent VHAP regulation is W.A.M. § 5320 that defines household as follows:

An individual must be a member of a VHAP group with countable income under the applicable income test to meet this requirement.

A VHAP group includes all of the following individuals if living in the same home:

- a. the VHAP applicant and his or her spouse;
- b. children under age 21 of the applicant or spouse;
- c. siblings under age 21, including halfsiblings and stepsiblings, of b;
- d. parents, including a stepparent and adoptive parents of c., and. . .

Although petitioner is divorced, the operative criteria are that petitioner and S.G. are parents of children in the household and both parents reside in the household. Based on

the regulation above, the Department is correct in including S.G. as part of the household and considering her income in the household's countable income.

The VHAP program provides coverage to those whose household income is less than 185% of the FPL. W.A.M. § 5324. The CHAP program provides coverage to those over-income for VHAP whose income is less than 300% of the FPL. W.A.M. § 5913. Petitioner's countable monthly income of \$7,066.20 exceeds the VHAP maximum of \$3,415 and the CHAP maximum of \$5,538 for a household of four. P-2420B.

The Dr. Dynasaur program provides medical coverage to children under the age of twenty-one years if the household income does not exceed 300%. M331 sets out the financial responsibility of family members as follows:

. . .Financial responsibility. . .is limited to the following;

. . .

2. parent(s), stepparent or adoptive parent(s) for his or her (their) unmarried children under the age of 21 living in the same household. . .

See also M331.3 noting parental responsibility ends when the child no longer lives in the same household as his/her parent(s). Based on the above regulations, the Department is

correct in including S.G. as part of the household and including her income in the eligibility determination.

Petitioner's countable monthly income of \$7,066.20 exceeds the Dr. Dynasaur maximum of \$5,538 for a household of four. P-2420B.

Based on the regulations, the Department's decision to include S.G. as part of the household and include her income in determining eligibility for VHAP and Dr. Dynasaur is correct. The Department's decision to close petitioner's VHAP and Dr. Dynasaur benefits is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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